

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

GLADYS GARCÍA RUBIERA, etc.

Plaintiffs

v.

HONORABLE LUIS G. FORTUÑO, et al

Defendants

CIVIL NO.: 02-1179 (GAG)

DECLARATORY JUDGMENT;
INJUNCTION; CIVIL RIGHTS; CLASS
ACTION

STIPULATION FOR PERMANENT INJUNCTION

TO THE HONORABLE COURT:

COME the parties, represented by the undersigned counsel, and respectfully state and stipulate as follows:

1. On August 19, 2013, the First Circuit Court of Appeals remanded this case to the District Court for further proceedings, including the entry of an injunction in accordance with its mandate, and any further provisions to be determined by the Court.

2. On September 17, 2013, this Court through Hon. Gustavo A. Gelpí, U.S. District Judge issued an order to the parties to address the pending issues in accordance with the mandate of the Court of Appeals. (Docket No. 331)

3. Since then, the parties have engaged in discovery regarding the contents, mechanics, and costs of the required notice, and at the same time, have carried out settlement negotiations in order to settle the issues addressed in the stated Order of the Court.

4. As a result of the discovery and settlement negotiations in the case, the parties have reached an agreement as to the terms of the Injunction to be issued.

5. Having extensively discussed the pending issues, it is in the interest of the plaintiffs' class and the defendant public officials to settle the present case on the terms and conditions set forth herein:

I. Class Definition

1. Plaintiffs' class is defined as:

All vehicle owners in the Commonwealth of Puerto Rico who paid duplicate premiums¹ between the years 1998 to 2010 who, up to the present time have not been reimbursed nor credited the duplicate payments.

II. Individual Notice, General Notice, and Their Contents

1. This case is related to a parallel case pending before the courts of the Commonwealth of Puerto Rico (*García Rubiera v. Joint Underwriting Association, et al.*, K DP2001-1441 (801)). Since the defendants in this action are being sued in their official capacities only and the Commonwealth of Puerto Rico is one of the two defendants in the case before the Commonwealth courts, and the plaintiff class is the same in both cases, it should be considered that the parties in this action are also parties in the parallel case. The negotiations to settle this action have been undertaken concurrently with negotiations to conclude the litigation between plaintiffs and the Commonwealth in the parallel action, in which said parties have also reached a settlement stipulation that will be subject to the approval of the Commonwealth court. In both actions it will be necessary to notify the members of the plaintiff class about the reimbursement procedure and other related matters. The parties herein have agreed that, postponing for a reasonable time the publication of the notice that they have agreed herein, would allow the

¹ Duplicate premiums are defined as the compulsory premium of \$99.00 and \$148.00 paid by vehicle owners who also acquired private automobile liability insurances.

Commonwealth court the opportunity to consider the stipulation for partial settlement that the plaintiffs and the Commonwealth will file in said parallel action, thus reducing costs and promoting judicial efficiency. The settlement stipulation in the Commonwealth case will also entail a notice similar to the one agreed herein. Hence, the parties consider that postponing said publication will save significant resources by allowing a single publication that will serve the purposes of both actions. Accordingly, the parties have agreed that the individual notices and the publication notice described below, will be sent and/or published not later than October 1st 2016. The nature and contents of such notices will be as follows:

Individual Notice

- a. The Secretary of the Treasury will send a letter by first class mail to each vehicle owner who appears in the lists sent to the Secretary of the Treasury by the *Asociación de Subscripción Conjunta de Seguro de Responsabilidad Obligatorio* (hereinafter "ASC") for the years 1998 to 2010. Letters will only be sent to those persons who have deliverable addresses in accordance with applicable USPS regulations, which address shall be supplemented or verified from information of the addresses of the vehicle owners in possession of the Secretary of the Department of Public Works and Transportation. The letter shall advise the vehicle owner that he/she/it may be entitled to apply for a reimbursement of the duplicate premiums for the year(s) stated in the letter. The letter will include the information contained in the lists forwarded by the ASC to the Secretary of the Treasury as to name, address, and last four digits of the Social Security Number,

license plate, VIN number, name of the insurance company, policy number, and pertinent year. The letter shall also include an application form.

- b. The letter shall include the following statement:

This Notice is being sent in compliance with and as a result of a stipulation and judgment issued in *Garcia Rubiera et al., v. Hon. Luis G. Fortuño, et al.*, Civil No. 02-1179 (GAG), before the U.S. District Court for the District of Puerto Rico and *García Rubiera v. Joint Underwriting Association, et al.*, K DP2001-1441 (801).

General Notice

- c. Defendants, at their cost, will publish the full list of all vehicle owners who may be entitled to reimbursement from the years 1998 to 2010, as sent to the Secretary of the Treasury by the ASC, in an internet website to which vehicle owners can have ready access. The defendants, with the assistance of technical personnel, will create said page in the internet to ensure that any person that has a reasonable belief that he/she/it may be entitled to a reimbursement may obtain the required information. The content of the internet page will be agreed to by the parties.
- d. Once a week during six consecutive weeks, a full page notice will be published in *El Nuevo Día* (in Spanish) and in *The San Juan Star* (in English) newspapers, containing the information as agreed herein. Copies of said notices will be agreed to by the parties.
- e. Defendants shall provide access to the full list of potential applicants at any Treasury Department collections office ("Colecturía") through available resources including providing the applicants the page or pages of the lists in which the applicants appear.

- f. Radio station notices, the contents of which will be agreed by the parties, shall be made twice daily, during a four-week period, in the following three radio stations: WKAQ, Radio Isla, and Radio Oro.
- g. The newspapers notices, the radio station notices and the internet web site shall make reference to the present stipulation and the manner in which reimbursement may be sought.
- h. Every six months the defendants shall provide plaintiff attorneys with a report containing the following information: (1) the number of applications filed, (2) the number of applications granted, (3) the number of applications denied and (4) the amounts paid or credited.
- i. The cost of the publication of all notices, including the mailing of first class mail, and the notices in the newspapers, the radio and in the internet shall be borne by the defendants.

III. Reimbursement Period and Reimbursement Procedure

1. All class members will have two (2) years from the date the last one page advertisement is published in *El Nuevo Día* and *The San Juan Star*, advising the class of their right to apply for reimbursement, by filing a claim for reimbursement with the Secretary of the Treasury in accordance with the present stipulation.

2. The parties agree that the vehicle owners can file their claims by making an application to the Secretary of the Treasury containing their name, address, Social Security Number, the vehicle license plates number, the Vehicle Identification number (VIN), the name of

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[Signature]

the insurance company, the policy number and the year of the policy as said information appears in the lists sent by ASC to the Secretary of the Treasury and a statement to the effect that: (a) the applicant was, during the pertinent year, the owner of the motor vehicle and that he/she/it paid the private insurance premium and also the compulsory insurance premium; (b) has not been reimbursed of the compulsory insurance premium; and (c) is the person who appears in the list of vehicle owners entitled to reimbursement sent by the ASC to the Secretary of the Treasury for the years 1998 to 2010. No additional information shall be required in the application. Said application does not have to be notarized but shall be made under penalty of perjury. The application may contain the request for reimbursement for one or more motor vehicles or one or more years. A sample of the application form is included herewith.

3. Applicants may seek reimbursement by filing an application through the internet website designated by the Secretary of the Treasury or by mail to the stated postal address of the Secretary of the Treasury.

4. The Secretary of the Treasury will have 120 days to verify whether the information is correct and the applicant appears in the lists sent by the ASC and whether the applicant does not have any debt of taxes to the Government of Puerto Rico. Once the verification is made, the Secretary will proceed to approve the application and reimburse or credit the vehicle owner. If an application is rejected the reasons for the rejection will be notified to the applicant.

IV. Attorney's Fees and Jurisdiction

1. The attorneys for the Plaintiffs class applied for interim attorney's fees for their worked performed in this case until September 17, 2013, which were satisfied by the defendants pursuant to a stipulation on the subject. The attorneys for the Plaintiffs class have applied for a final award of attorney's fees in the total amount of \$144,311.75 for Mr. Antonio J. Amadeo Murga and \$30,431.25 for Mr. Mario M. Oronoz (*See docket nos. 436 and 444*) The parties have agreed to settle the application for final compensation by attorneys for the Plaintiffs class, including all costs. Accordingly, defendants will deposit with the Clerk of this court, within sixty days from the entry of judgment approving this Settlement Stipulation, the amount of \$100,000.00 for Atty. Antonio J. Amadeo Murga, and \$25,000.00 for Atty. Mario M. Oronoz. Such payments will satisfy all claims for legal fees and costs related to this action only.

2. This court will retain jurisdiction to enforce the terms of this stipulation and judgment.

WHEREFORE, the parties respectfully request that the present stipulation and settlement be approved.

RESPECTFULLY SUBMITTED.

I HEREBY CERTIFY that, on this same date, we electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to all parties of record.

In San Juan, Puerto Rico, on this 29th day of February, 2016.

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